



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0265/12
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DOA:.....Milioto, BB0021 - Administration of SSI program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

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AN ACT *relating to: the budget.* ✓

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under one program under current law, low-income individuals who are eligible to receive federal supplemental security income (SSI) because they are blind, disabled, or 65 years of age or older are eligible to receive a state supplemental payment. Under another program under current law, an individual who receives SSI or state supplemental payments, or both, and who is a custodial parent of a dependent child is eligible to receive monthly payments for the support of the dependent child. DHFS administers both of the programs. This bill expressly provides that DHFS shall administer both programs, and authorizes DHFS to promulgate rules to guide the administration of eligibility determinations and benefits payments under the programs.

DHFS administers a number of public assistance programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers, and provides that DHFS may recover overpayments by reducing the benefits of a family or individual who received the overpayments and who is still receiving benefits. The bill authorizes DHFS to specify by rule other methods for recovering incorrectly paid benefits, and provides for recovery of these incorrectly paid benefits through a state income tax refund setoff process.

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: the MA and the food stamp program.

This bill maintains the requirement for DWD to investigate fraud and conduct error reduction activities and the authorization for DHFS to contract with DWD, but adds an alternative fraud and error reduction scheme for both departments. Under the bill, DHFS is also required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. Thus, each department must either conduct its own investigation and error reduction activities or contract with the other department to do so. In addition, the bill adds three DHFS-administered programs to the programs for which fraudulent activity must be investigated and payment error reduction activities must be conducted: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

CHILDREN

Under current law, DHFS or a county department of human services or social services (county department) provides monthly payments to foster parents, treatment foster parents, kinship care relatives, and long-term kinship care relatives who provide care and maintenance for children. DHFS also provides adoption assistance, including monthly maintenance payments, to adoptive parents to assist in the cost of the care of children with special needs. This bill permits DHFS or a county department to recover an overpayment of foster care, treatment foster care, kinship care, long-term kinship care, and adoption assistance payments from a foster parent, treatment foster parent, kinship care relative, long-term kinship care relative, or adoptive parent who continues to receive those payments by reducing those payments by no more than 10 percent. The bill also permits DHFS to specify by rule other methods for recovering those payments.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 20.435 (4) (L) ~~Medical assistance and food stamp fraud~~ Fraud and error
2 *reduction*. All moneys received as the state's share of the recovery of overpayments
3 and incorrect payments under ss. 49.847, 49.497 (1), and 49.793 (2) and all moneys
4 received from counties and tribal governing bodies as a result of any error reduction
5 activities ~~in the medical assistance and food stamp programs~~ under ss. 49.45 (2) (a)
6 ~~3m.~~, 49.197, ~~and 49.79 (9)~~ and 49.845, for any contracts under s. 49.197 (5), for any
7 activities to reduce error and fraud under ss. 49.45 (2) (a) ~~3m.~~ and ~~49.79 (9)~~ s. 49.845,
8 to pay federal sanctions under the food stamp program, and for food stamp
9 reinvestment activities under reinvestment agreements with the federal
10 department of agriculture that are designed to improve the food stamp program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

✓ ***NOTE: By eliminating the specific references to MA and the food stamp program, I have expanded this appropriation so that it includes all of the programs for which fraud and error reduction activities must be conducted under s. 49.845. Is this okay?

I have also added to this appropriation all moneys received under proposed s. 49.847. Is this okay, or do you want a new appropriation that specifies other purposes for the moneys received under that section?

11 **SECTION 2.** 20.445 (3) (dz) of the statutes is amended to read:

12 20.445 (3) (dz) *Temporary Assistance for Needy Families programs;*
13 *maintenance of effort*. The amounts in the schedule, less the amounts withheld
14 under s. 49.143 (3), for administration and benefit payments under Wisconsin Works
15 under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work
16 experience program for noncustodial parents under s. 49.36; for payments to local
17 governments, organizations, tribal governing bodies, and Wisconsin Works agencies;
18 for emergency assistance for families with needy children under s. 49.138; and for
19 job access loans under s. 49.147 (6). Payments may be made from this appropriation
20 for any contracts under s. 49.845 (4) and for any fraud investigation and error

1 reduction activities under s. 49.197 (1m). Moneys appropriated under this
2 paragraph may be used to match federal funds received under par. (md).
3 Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds
4 between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and
5 20.002 (1), the department of health and family services shall credit or deposit into
6 this appropriation account funds for the purposes of this appropriation that the
7 department transfers from the appropriation account under s. 20.435 (7) (bc). All
8 funds allocated by the department but not encumbered by December 31 of each year
9 lapse to the general fund on the next January 1 unless transferred to the next
10 calendar year by the joint committee on finance.

11 **SECTION 3.** 20.445 (3) (L) of the statutes is amended to read:

12 20.445 (3) (L) *Public assistance overpayment recovery and fraud and error*
13 *reduction.* All moneys received as the state's share of the recovery of overpayments
14 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
15 for any contracts under s. 49.845 (4) and for any activities to reduce error and fraud
16 under s. 49.197 relating to the Aid to Families with Dependent Children program
17 and the Wisconsin Works program.

18 **SECTION 4.** 48.57 (3m) (h) of the statutes is created to read:

19 48.57 (3m) (h) A county department or, in a county having a population of
20 500,000 or more, the department may recover an overpayment made under par. (am)
21 from a kinship care relative who continues to receive payments under par. (am) by
22 reducing the amount of the kinship care relative's monthly payment ~~by no more than~~
23 10 percent. The department may by rule specify other methods for recovering
24 overpayments made under par. (am). A county department that recovers an

1 overpayment under this paragraph due to the efforts of its officers and employees
2 may retain a portion of the amount recovered, as provided by the department by rule.

3 **SECTION 5.** 48.57 (3n) (h) of the statutes is created to read:

4 48.57 **(3n)** (h) A county department or, in a county having a population of
5 500,000 or more, the department may recover an overpayment made under par. (am)
6 from a long-term kinship care relative who continues to receive payments under par.
7 (am) by reducing the amount of the long-term kinship care relative's monthly
8 payment ~~by no more than 10 percent.~~ The department may by rule specify other
9 methods for recovering overpayments made under par. (am). A county department
10 that recovers an overpayment under this paragraph due to the efforts of its officers
11 and employees may retain a portion of the amount recovered, as provided by the
12 department by rule.

13 **SECTION 6.** 48.62 (5) of the statutes is created to read:

14 48.62 **(5)** The department or a county department may recover an overpayment
15 made under sub. (4) from a foster parent or treatment foster parent who continues
16 to receive payments under sub. (4) by reducing the amount of the foster parent's or
17 treatment foster parent's monthly payment ~~by no more than 10 percent.~~ The
18 department may by rule specify other methods for recovering overpayments made
19 under sub. (4). A county department that recovers an overpayment under this
20 subsection due to the efforts of its officers and employees may retain a portion of the
21 amount recovered, as provided by the department by rule.

22 **SECTION 7.** 48.975 (4m) of the statutes is created to read:

23 48.975 **(4m)** **RECOVERY OF INCORRECT PAYMENTS.** The department may recover
24 an overpayment of adoption assistance from an adoptive parent who continues to
25 receive adoption assistance for maintenance by reducing the amount of the adoptive

- 1) parent's monthly payment of adoption assistance for maintenance ~~by no more than~~
2) ~~10 percent or \$10, whichever is greater.~~ The department may by rule specify other
3 methods for recovering overpayments of adoption assistance.

4 **SECTION 8.** 49.197 (1m) of the statutes is amended to read:

5 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3)
6 (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program to
7 investigate suspected fraudulent activity on the part of recipients of aid to families
8 with dependent children under s. 49.19, on the part of participants in the Wisconsin
9 works Works program under ss. 49.141 to 49.161, and, if the department of health
10 and family services contracts with the department under sub. (5), on the part of
11 recipients of medical assistance under subch. IV and, food stamp benefits under the
12 food stamp program under 7 USC 2011 to 2036, supplemental security income
13 payments under s. 49.77, payments for the support of children of supplemental
14 security income recipients under s. 49.775, and health care benefits under the
15 Badger Care health care program under s. 49.665. The department's activities under
16 this subsection may include, but are not limited to, comparisons of information
17 provided to the department by an applicant and information provided by the
18 applicant to other federal, state, and local agencies, development of an advisory
19 welfare investigation prosecution standard, and provision of funds to county
20 departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin works Works
21 agencies to encourage activities to detect fraud. The department shall cooperate
22 with district attorneys regarding fraud prosecutions.

23 **SECTION 9.** 49.197 (3) of the statutes is amended to read:

24 49.197 (3) STATE ERROR REDUCTION ACTIVITIES. The department shall conduct
25 activities to reduce payment errors in Wisconsin works Works under ss. 49.141 to

1 49.161 and, if the department of health and family services contracts with the
2 department under sub. (5), the ~~medical assistance~~ Medical Assistance program
3 under subch. IV and, the food stamp program under 7 USC 2011 to 2036, the
4 supplemental security income payments program under s. 49.77, the program
5 providing payments for the support of children of supplemental security income
6 recipients under s. 49.775, and the Badger Care health care program under s. 49.665.

7 **SECTION 10.** 49.197 (4) of the statutes is amended to read:

8 49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION. If the department of health and
9 family services contracts with the department under sub. (5), the department shall
10 provide funds from the appropriation under s. 20.445 (3) (kx) to counties and
11 governing bodies of federally recognized American Indian tribes administering
12 ~~medical assistance~~ Medical Assistance under subch. IV ~~or~~, the food stamp program
13 under 7 USC 2011 to 2036, the supplemental security income payments program
14 under s. 49.77, the program providing payments for the support of children of
15 supplemental security income recipients under s. 49.775, and the Badger Care
16 health care program under s. 49.665 to offset administrative costs of reducing
17 payment errors in those programs.

18 **SECTION 11.** 49.197 (5) of the statutes is amended to read:

19 49.197 (5) CONTRACTS FOR MEDICAL ASSISTANCE ~~AND~~ ⁷² FOOD STAMPS. The
20 Notwithstanding s. 49.845 (1) and (2), the department of health and family services
21 may contract with the department to investigate suspected fraudulent activity on
22 the part of recipients of medical assistance under subch. IV ~~or recipients of~~, food
23 stamp benefits under the food stamp program under 7 USC 2011 to 2036,
24 supplemental security income payments under s. 49.77, payments for the support of
25 children of supplemental security income recipients under s. 49.775, and health care

1 benefits under the Badger Care health care program under s. 49.665 and to conduct
2 activities to reduce payment errors in the Medical Assistance program under subch.
3 IV, the food stamp program under 7 USC 2011 to 2036, the supplemental security
4 income payments program under s. 49.77, the program providing payments for the
5 support of children of supplemental security income recipients under s. 49.775, and
6 the Badger Care health care program under s. 49.665, as provided in this section.

7 **SECTION 12.** 49.32 (7) (b) of the statutes is amended to read:

8 49.32 (7) (b) The department shall conduct a program to periodically match the
9 records of recipients of aid to families with dependent children under s. 49.19 and,
10 if the department of health and family services contracts with the department under
11 s. 49.197 (5), recipients of medical assistance under subch. IV and, food stamp
12 benefits under the food stamp program under 7 USC 2011 to 2036, supplemental
13 security income payments under s. 49.77, payments for the support of children of
14 supplemental security income recipients under s. 49.775, and health care benefits
15 under the Badger Care health care program under s. 49.665 with the records of
16 recipients under those programs, or comparable programs, in other states. If an
17 agreement with the other states can be obtained, matches with records of states
18 contiguous to this state shall be conducted at least annually.

19 **SECTION 13.** 49.32 (7) (c) of the statutes is amended to read:

20 49.32 (7) (c) The department shall conduct a program to periodically match the
21 address records of recipients of aid to families with dependent children under s. 49.19
22 and, if the department of health and family services contracts with the department
23 under s. 49.197 (5), recipients of medical assistance under subch. IV and, food stamp
24 benefits under the food stamp program under 7 USC 2011 to 2036, supplemental
25 security income payments under s. 49.77, payments for the support of children of

1 supplemental security income recipients under s. 49.775, and health care benefits
2 under the Badger Care health care program under s. 49.665 to verify residency and
3 to identify recipients receiving duplicate or fraudulent payments.

4 **SECTION 14.** 49.32 (7) (d) of the statutes is amended to read:

5 49.32 (7) (d) The department, with assistance from the department of
6 corrections, shall conduct a program to periodically match the records of persons
7 confined in state correctional facilities with the records of recipients of aid to families
8 with dependent children under s. 49.19 and, if the department of health and family
9 services contracts with the department under s. 49.197 (5), recipients of medical
10 assistance under subch. IV and, food stamp benefits under the food stamp program
11 under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77,
12 payments for the support of children of supplemental security income recipients
13 under s. 49.775, and health care benefits under the Badger Care health care program
14 under s. 49.665 to identify recipients who may be ineligible for benefits.

15 **SECTION 15.** 49.45 (2) (a) 3m. of the statutes is repealed.

16 **SECTION 16.** 49.77 (6) of the statutes is created to read:

17 49.77 (6) AUTHORITY TO ADMINISTER; RULES. The department shall administer
18 this section and s. 49.775, and may promulgate rules to guide the administration of
19 eligibility determinations and benefits payments.

20 **SECTION 17.** 49.78 (8) (a) of the statutes is amended to read:

21 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
22 and subject to par. (b), the department shall reimburse each county and tribal
23 governing body that contracts with the department under sub. (2) for reasonable
24 costs of administering the income maintenance programs. The amount of each
25 reimbursement paid under this paragraph shall be calculated using a formula based

on workload within the limits of available state and federal funds under s. 20.435 (4) (bn) and (nn) by contract under sub. (2). The amount of reimbursement calculated under this paragraph and par. (b) is in addition to any reimbursement provided to a county or tribal governing body for fraud and error reduction under s. 49.197 (1m) and (4) or 49.845.

SECTION 18. 49.79 (9) of the statutes is repealed.

SECTION 19. 49.845 of the statutes is created to read:

49.845 Fraud investigation and reduction and error reduction. (1)

FRAUD INVESTIGATION. From the appropriations under s. 20.435 (4) (bn), (kz), (L), and (nn), the department of health and family services shall establish a program to investigate suspected fraudulent activity on the part of recipients of medical assistance under subch. IV, food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665 and, if the department of workforce development contracts with the department of health and family services under sub. (4), on the part of recipients of aid to families with dependent children under s. 49.19 and participants in the Wisconsin Works program under ss. 49.141 to 49.161. The activities of the department of health and family services under this subsection may include comparisons of information provided to the department by an applicant and information provided by the applicant to other federal, state, and local agencies, development of an advisory welfare investigation prosecution standard, and provision of funds to county departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin Works agencies to encourage activities to detect fraud. The department

1 of health and family services shall cooperate with district attorneys regarding fraud
2 prosecutions.

3 (2) STATE ERROR REDUCTION ACTIVITIES. The department of health and family
4 services shall conduct activities to reduce payment errors in the Medical Assistance
5 program under subch. IV, the food stamp program under 7 USC 2011 to 2036, the
6 supplemental security income payments program under s. 49.77, the program
7 providing payments for the support of children of supplemental security income
8 recipients under s. 49.775, and the Badger Care health care program under s. 49.665
9 and, if the department of workforce development contracts with the department of
10 health and family services under sub. (4), in Wisconsin Works under ss. 49.141 to
11 49.161.

12 (3) WISCONSIN WORKS AGENCY ERROR REDUCTION. If the department of workforce
13 development contracts with the department of health and family services under sub.
14 (4), the department of health and family services shall provide funds from the
15 appropriation under s. 20.435 (3) (kz) to Wisconsin Works agencies to offset the
16 administrative costs of reducing payment errors in Wisconsin Works under ss.
17 49.141 to 49.161.

18 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3),
19 the department of workforce development may contract with the department of
20 health and family services to investigate suspected fraudulent activity on the part
21 of recipients of aid to families with dependent children under s. 49.19 and
22 participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities
23 to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided
24 in this section.

25 SECTION 20. 49.847 of the statutes is created to read:

1 **49.847 Recovery of incorrect payments under certain public**
2 **assistance programs.** (1) Subject to ss. 49.497 (1) and 49.793 (1), the department
3 of health and family services, or a county or elected governing body of a federally
4 recognized American Indian tribe or band acting on behalf of the department, may
5 recover benefits incorrectly paid under any of the programs administered by the
6 department under this chapter.

7 (2) The department, county, or elected governing body may recover an
8 overpayment from a family or individual who continues to receive benefits under any
9 program administered by the department under this chapter by reducing the
10 family's or individual's benefit amount. Subject to s. 49.793 (1), if the family's or
11 individual's benefit consists of a monthly amount, that amount may not be reduced
12 under this subsection by more than 10 percent or \$10, whichever is greater. The
13 department may by rule specify other methods for recovering incorrectly paid
14 benefits.

15 (3) Subject to ss. 49.497 (2) and 49.793 (2), a county or elected governing body
16 may retain a portion of an amount recovered under this section due to the efforts of
17 an employee or officer of the county, tribe, or band, as provided by the department
18 by rule.

19 **SECTION 21.** 49.85 (1) of the statutes is amended to read:

20 49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT. If a county department under
21 s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American
22 Indian tribe or band determines that the department of health and family services
23 may recover an amount under s. 49.497, 49.793, or 49.847, or that the department
24 of workforce development may recover an amount under s. 49.161, or 49.195 (3), or
25 49.793, or collect an amount under s. 49.147 (6) (cm), the county department or

1 governing body shall notify the affected department of the determination. If a
2 Wisconsin ~~works~~ Works agency determines that the department of workforce
3 development may recover an amount under s. 49.161 or 49.195 (3), or collect an
4 amount under s. 49.147 (6) (cm), the Wisconsin ~~works~~ Works agency shall notify the
5 department of workforce development of the determination.

6 **SECTION 22.** 49.85 (2) (a) of the statutes is amended to read:

7 49.85 (2) (a) At least annually, the department of health and family services
8 shall certify to the department of revenue the amounts that, based on the
9 notifications received under sub. (1) and on other information received by the
10 department of health and family services, the department of health and family
11 services has determined that it may recover under s. 49.45 (2) (a) 10. ~~or~~, 49.497,
12 49.793, or 49.847, except that the department of health and family services may not
13 certify an amount under this subsection unless it has met the notice requirements
14 under sub. (3) and unless its determination has either not been appealed or is no
15 longer under appeal.

16 **SECTION 23.** 49.85 (2) (b) of the statutes is amended to read:

17 49.85 (2) (b) At least annually, the department of workforce development shall
18 certify to the department of revenue the amounts that, based on the notifications
19 received under sub. (1) and on other information received by the department of
20 workforce development, the department of workforce development has determined
21 that it may recover under ss. 49.161, and 49.195 (3), ~~and 49.793~~, and collect under
22 s. 49.147 (6) (cm), except that the department of workforce development may not
23 certify an amount under this subsection unless it has met the notice requirements
24 under sub. (3) and unless its determination has either not been appealed or is no
25 longer under appeal.

1 **SECTION 24.** 49.85 (3) (a) 1. of the statutes is amended to read:

2 49.85 **(3)** (a) 1. Inform the person that the department of health and family
3 services intends to certify to the department of revenue an amount that the
4 department of health and family services has determined to be due under s. 49.45
5 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847,~~ for setoff from any state tax refund that may
6 be due the person.

7 **SECTION 25.** 49.85 (3) (b) 1. of the statutes is amended to read:

8 49.85 **(3)** (b) 1. Inform the person that the department of workforce
9 development intends to certify to the department of revenue an amount that the
10 department of workforce development has determined to be due under s. 49.161, or
11 49.195 (3), ~~or 49.793,~~ or to be delinquent under a repayment agreement for a loan
12 under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

13 **SECTION 26.** 71.93 (1) (a) 3. of the statutes is amended to read:

14 71.93 **(1)** (a) 3. An amount that the department of health and family services
15 may recover under s. 49.45 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847,~~ if the department
16 of health and family services has certified the amount under s. 49.85.

17 **SECTION 27.** 71.93 (1) (a) 4. of the statutes is amended to read:

18 71.93 **(1)** (a) 4. An amount that the department of workforce development may
19 recover under s. 49.161, or 49.195 (3), ~~or 49.793,~~ or may collect under s. 49.147 (6)
20 (cm), if the department of workforce development has certified the amount under s.
21 49.85.

22 **SECTION 28.** 978.05 (4m) of the statutes is amended to read:

1 978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department
2 departments of workforce development and health and family services regarding the
3 fraud investigation ~~program~~ programs under s. ss. 49.197 (1m) and 49.845 (1).

4 (END)

Intro

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0265/lins
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INSERT 7-19

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, SUPPLEMENTAL SECURITY INCOME, AND CARETAKER SUPPLEMENT ✓

(END OF INSERT 7-19)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/1dn
PJK&GMM:jld:pg

Steve:

The redraft instructions included a request to add a reference to "the Childcare program" to s. 49.845 (1).[✓] The program providing a child care subsidy to eligible persons under s. 49.155 is part of the W-2 program (which is referenced); s. 49.155 is included in the statutes referenced for the W-2 program, ss. 49.141 to 49.161.[✓] If the redraft instructions are referring to another child care program, let me know what that is and I can add a cross-reference.[✓]

Pamela J. Kahler
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/1dn
PJK:jld:rs

January 18, 2005

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The redraft instructions included a request to add a reference to "the Childcare program" to s. 49.845 (1). The program providing a child care subsidy to eligible persons under s. 49.155 is part of the W-2 program (which is referenced); s. 49.155 is included in the statutes referenced for the W-2 program, ss. 49.141 to 49.161. If the redraft instructions are referring to another child care program, let me know what that is and I can add a cross-reference.

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0265/X²
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DHFS administers a number of public assistance programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers, and provides that DHFS may recover overpayments by reducing the benefits of a family or individual who received the overpayments and who is still receiving benefits. The bill authorizes DHFS to specify by rule other methods for recovering incorrectly paid benefits, and provides for recovery of these incorrectly paid benefits through a state income tax refund setoff process.

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: the MA and the food stamp program.

This bill maintains the requirement for DWD to investigate fraud and conduct error reduction activities and the authorization for DHFS to contract with DWD, but adds an alternative fraud and error reduction scheme for both departments. Under the bill, DHFS is also required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. Thus, each department must either conduct its own investigation and error reduction activities or contract with the other department to do so. In addition, the bill adds three DHFS-administered programs to the programs for which fraudulent activity must be investigated and payment error reduction activities must be conducted: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

CHILDREN

Under current law, DHFS or a county department of human services or social services (county department) provides monthly payments to foster parents, treatment foster parents, kinship care relatives, and long-term kinship care relatives who provide care and maintenance for children. DHFS also provides adoption assistance, including monthly maintenance payments, to adoptive parents to assist in the cost of the care of children with special needs. This bill permits DHFS or a county department to recover an overpayment of foster care, treatment foster care, kinship care, long-term kinship care, and adoption assistance payments from a foster parent, treatment foster parent, kinship care relative, long-term kinship care relative, or adoptive parent who continues to receive those payments by reducing those payments. The bill also permits DHFS to specify by rule other methods for recovering those payments.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

20.435 (4) (L) ~~Medical assistance and food stamp fraud~~ Fraud and error reduction. All moneys received as the state's share of the recovery of overpayments and incorrect payments under ss. 49.847, 49.497 (1), and 49.793 (2) and all moneys received from counties and tribal governing bodies as a result of any error reduction activities ~~in the medical assistance and food stamp programs~~ under ss. ~~49.45 (2) (a) 3m.~~, 49.197, ~~and 49.79 (9) and 49.845~~, for any contracts under s. 49.197 (5), for any activities to reduce error and fraud under ss. ~~49.45 (2) (a) 3m. and 49.79 (9) s. 49.845~~, to pay federal sanctions under the food stamp program, and for food stamp reinvestment activities under reinvestment agreements with the federal department of agriculture that are designed to improve the food stamp program.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.445 (3) (dz) of the statutes is amended to read:

20.445 (3) (dz) *Temporary Assistance for Needy Families programs; maintenance of effort.* As a continuing appropriation, the ~~The~~ amounts in the schedule, less the amounts withheld under s. 49.143 (3), for administration and benefit payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work experience program for noncustodial parents under s. 49.36; for payments to local governments, organizations, tribal governing bodies, and Wisconsin Works agencies; and for emergency assistance for families with needy children under s. 49.138; ~~and for~~ job access loans under s. 49.147 (6). Payments may be made from this appropriation for any contracts under s. 49.845 (4) and for any fraud investigation and error reduction activities under s. 49.197 (1m). Moneys appropriated under this paragraph may be used to match federal funds received under par. (md). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds

1 between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and
2 20.002 (1), the department of health and family services shall credit or deposit into
3 this appropriation account funds for the purposes of this appropriation that the
4 department transfers from the appropriation account under s. 20.435 (7) (bc). ~~All~~
5 ~~funds allocated by the department but not encumbered by December 31 of each year~~
6 ~~lapse to the general fund on the next January 1 unless transferred to the next~~
7 ~~calendar year by the joint committee on finance.~~

8 **SECTION 3.** 20.445 (3) (L) of the statutes is amended to read:

9 20.445 (3) (L) *Public assistance overpayment recovery and fraud and error*
10 *reduction.* All moneys received as the state's share of the recovery of overpayments
11 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
12 for any contracts under s. 49.845 (4) and for any activities to reduce error and fraud
13 under s. 49.197 relating to the Aid to Families with Dependent Children program
14 and the Wisconsin Works program.

15 **SECTION 4.** 48.57 (3m) (h) of the statutes is created to read:

16 48.57 (3m) (h) A county department or, in a county having a population of
17 500,000 or more, the department may recover an overpayment made under par. (am)
18 from a kinship care relative who continues to receive payments under par. (am) by
19 reducing the amount of the kinship care relative's monthly payment. The
20 department may by rule specify other methods for recovering overpayments made
21 under par. (am). A county department that recovers an overpayment under this
22 paragraph due to the efforts of its officers and employees may retain a portion of the
23 amount recovered, as provided by the department by rule.

24 **SECTION 5.** 48.57 (3n) (h) of the statutes is created to read:

1 48.57 **(3n)** (h) A county department or, in a county having a population of
2 500,000 or more, the department may recover an overpayment made under par. (am)
3 from a long-term kinship care relative who continues to receive payments under par.
4 (am) by reducing the amount of the long-term kinship care relative's monthly
5 payment. The department may by rule specify other methods for recovering
6 overpayments made under par. (am). A county department that recovers an
7 overpayment under this paragraph due to the efforts of its officers and employees
8 may retain a portion of the amount recovered, as provided by the department by rule.

9 **SECTION 6.** 48.62 (5) of the statutes is created to read:

10 48.62 **(5)** The department or a county department may recover an overpayment
11 made under sub. (4) from a foster parent or treatment foster parent who continues
12 to receive payments under sub. (4) by reducing the amount of the foster parent's or
13 treatment foster parent's monthly payment. The department may by rule specify
14 other methods for recovering overpayments made under sub. (4). A county
15 department that recovers an overpayment under this subsection due to the efforts
16 of its officers and employees may retain a portion of the amount recovered, as
17 provided by the department by rule.

18 **SECTION 7.** 48.975 (4m) of the statutes is created to read:

19 48.975 **(4m)** **RECOVERY OF INCORRECT PAYMENTS.** The department may recover
20 an overpayment of adoption assistance from an adoptive parent who continues to
21 receive adoption assistance for maintenance by reducing the amount of the adoptive
22 parent's monthly payment of adoption assistance for maintenance. The department
23 may by rule specify other methods for recovering overpayments of adoption
24 assistance.

25 **SECTION 8.** 49.197 (1m) of the statutes is amended to read:

1 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3)
2 (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program to
3 investigate suspected fraudulent activity on the part of recipients of aid to families
4 with dependent children under s. 49.19, on the part of participants in the Wisconsin
5 works Works program under ss. 49.141 to 49.161, and, if the department of health
6 and family services contracts with the department under sub. (5), on the part of
7 recipients of medical assistance under subch. IV and, food stamp benefits under the
8 food stamp program under 7 USC 2011 to 2036, supplemental security income
9 payments under s. 49.77, payments for the support of children of supplemental
10 security income recipients under s. 49.775, and health care benefits under the
11 Badger Care health care program under s. 49.665. The department's activities under
12 this subsection may include, but are not limited to, comparisons of information
13 provided to the department by an applicant and information provided by the
14 applicant to other federal, state, and local agencies, development of an advisory
15 welfare investigation prosecution standard, and provision of funds to county
16 departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin works Works
17 agencies to encourage activities to detect fraud. The department shall cooperate
18 with district attorneys regarding fraud prosecutions.

19 **SECTION 9.** 49.197 (3) of the statutes is amended to read:

20 49.197 (3) STATE ERROR REDUCTION ACTIVITIES. The department shall conduct
21 activities to reduce payment errors in Wisconsin works Works under ss. 49.141 to
22 49.161 and, if the department of health and family services contracts with the
23 department under sub. (5), the ~~medical assistance~~ Medical Assistance program
24 under subch. IV and, the food stamp program under 7 USC 2011 to 2036, the
25 supplemental security income payments program under s. 49.77, the program

1 providing payments for the support of children of supplemental security income
2 recipients under s. 49.775, and the Badger Care health care program under s. 49.665.

3 **SECTION 10.** 49.197 (4) of the statutes is amended to read:

4 49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION. If the department of health and
5 family services contracts with the department under sub. (5), the department shall
6 provide funds from the appropriation under s. 20.445 (3) (kx) to counties and
7 governing bodies of federally recognized American Indian tribes administering
8 ~~medical assistance~~ Medical Assistance under subch. IV ~~or~~, the food stamp program
9 under 7 USC 2011 to 2036, the supplemental security income payments program
10 under s. 49.77, the program providing payments for the support of children of
11 supplemental security income recipients under s. 49.775, and the Badger Care
12 health care program under s. 49.665 to offset administrative costs of reducing
13 payment errors in those programs.

14 **SECTION 11.** 49.197 (5) of the statutes is amended to read:

15 49.197 (5) CONTRACTS FOR MEDICAL ASSISTANCE AND, FOOD STAMPS, SUPPLEMENTAL
16 SECURITY INCOME, AND CARETAKER SUPPLEMENT. The Notwithstanding s. 49.845 (1) and
17 (2), the department of health and family services may contract with the department
18 to investigate suspected fraudulent activity on the part of recipients of medical
19 assistance under subch. IV ~~or recipients of~~, food stamp benefits under the food stamp
20 program under 7 USC 2011 to 2036, supplemental security income payments under
21 s. 49.77, payments for the support of children of supplemental security income
22 recipients under s. 49.775, and health care benefits under the Badger Care health
23 care program under s. 49.665 and to conduct activities to reduce payment errors in
24 the Medical Assistance program under subch. IV, the food stamp program under 7
25 USC 2011 to 2036, the supplemental security income payments program under s.

1 49.77, the program providing payments for the support of children of supplemental
2 security income recipients under s. 49.775, and the Badger Care health care program
3 under s. 49.665, as provided in this section.

4 **SECTION 12.** 49.45 (2) (a) 3m. of the statutes is repealed.

5 **SECTION 13.** 49.77 (6) of the statutes is created to read:

6 49.77 (6) AUTHORITY TO ADMINISTER; RULES. The department shall administer
7 this section and s. 49.775, and may promulgate rules to guide the administration of
8 eligibility determinations and benefits payments.

9 **SECTION 14.** 49.78 (8) (a) of the statutes is amended to read:

10 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
11 and subject to par. (b), the department shall reimburse each county and tribal
12 governing body that contracts with the department under sub. (2) for reasonable
13 costs of administering the income maintenance programs. The amount of each
14 reimbursement paid under this paragraph shall be calculated using a formula based
15 on workload within the limits of available state and federal funds under s. 20.435 (4)
16 (bn) and (nn) by contract under sub. (2). The amount of reimbursement calculated
17 under this paragraph and par. (b) is in addition to any reimbursement provided to
18 a county or tribal governing body for fraud and error reduction under s. 49.197 (~~1m~~)
19 and (4) or 49.845.

20 **SECTION 15.** 49.79 (9) of the statutes is repealed.

21 **SECTION 16.** 49.845 of the statutes is created to read:

22 **49.845 Fraud investigation and error reduction. (1) FRAUD**
23 **INVESTIGATION.** From the appropriations under s. 20.435 (4) (bn), (kz), (L), and (nn),
24 the department of health and family services shall establish a program to investigate
25 suspected fraudulent activity on the part of recipients of medical assistance under

1 subch. IV, food stamp benefits under the food stamp program under 7 USC 2011 to
2 2036, supplemental security income payments under s. 49.77, payments for the
3 support of children of supplemental security income recipients under s. 49.775, and
4 health care benefits under the Badger Care health care program under s. 49.665 and,
5 if the department of workforce development contracts with the department of health
6 and family services under sub. (4), on the part of recipients of aid to families with
7 dependent children under s. 49.19 and participants in the Wisconsin Works program
8 under ss. 49.141 to 49.161. The activities of the department of health and family
9 services under this subsection may include comparisons of information provided to
10 the department by an applicant and information provided by the applicant to other
11 federal, state, and local agencies, development of an advisory welfare investigation
12 prosecution standard, and provision of funds to county departments under ss.
13 46.215, 46.22, and 46.23 and to Wisconsin Works agencies to encourage activities to
14 detect fraud. The department of health and family services shall cooperate with
15 district attorneys regarding fraud prosecutions.

16 (2) STATE ERROR REDUCTION ACTIVITIES. The department of health and family
17 services shall conduct activities to reduce payment errors in the Medical Assistance
18 program under subch. IV, the food stamp program under 7 USC 2011 to 2036, the
19 supplemental security income payments program under s. 49.77, the program
20 providing payments for the support of children of supplemental security income
21 recipients under s. 49.775, and the Badger Care health care program under s. 49.665
22 and, if the department of workforce development contracts with the department of
23 health and family services under sub. (4), in Wisconsin Works under ss. 49.141 to
24 49.161.

1 (3) WISCONSIN WORKS AGENCY ERROR REDUCTION. If the department of workforce
2 development contracts with the department of health and family services under sub.
3 (4), the department of health and family services shall provide funds from the
4 appropriation under s. 20.435 (4) (kz) to Wisconsin Works agencies to offset the
5 administrative costs of reducing payment errors in Wisconsin Works under ss.
6 49.141 to 49.161.

7 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3),
8 the department of workforce development may contract with the department of
9 health and family services to investigate suspected fraudulent activity on the part
10 of recipients of aid to families with dependent children under s. 49.19 and
11 participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities
12 to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided
13 in this section.

14 SECTION 17. 49.847 of the statutes is created to read:

15 **49.847 Recovery of incorrect payments under certain public**
16 **assistance programs.** (1) Subject to ss. 49.497 (1) and 49.793 (1), the department
17 of health and family services, or a county or elected governing body of a federally
18 recognized American Indian tribe or band acting on behalf of the department, may
19 recover benefits incorrectly paid under any of the programs administered by the
20 department under this chapter.

21 (2) The department, county, or elected governing body may recover an
22 overpayment from a family or individual who continues to receive benefits under any
23 program administered by the department under this chapter by reducing the
24 family's or individual's benefit amount. Subject to s. 49.793 (1), the department may
25 by rule specify other methods for recovering incorrectly paid benefits.

1 (3) Subject to ss. 49.497 (2) and 49.793 (2), a county or elected governing body
2 may retain a portion of an amount recovered under this section due to the efforts of
3 an employee or officer of the county, tribe, or band, as provided by the department
4 by rule.

5 **SECTION 18.** 49.85 (1) of the statutes is amended to read:

6 49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT. If a county department under
7 s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American
8 Indian tribe or band determines that the department of health and family services
9 may recover an amount under s. 49.497, 49.793, or 49.847, or that the department
10 of workforce development may recover an amount under s. 49.161, or 49.195 (3), or
11 ~~49.793~~, or collect an amount under s. 49.147 (6) (cm), the county department or
12 governing body shall notify the affected department of the determination. If a
13 Wisconsin works Works agency determines that the department of workforce
14 development may recover an amount under s. 49.161 or 49.195 (3), or collect an
15 amount under s. 49.147 (6) (cm), the Wisconsin works Works agency shall notify the
16 department of workforce development of the determination.

17 **SECTION 19.** 49.85 (2) (a) of the statutes is amended to read:

18 49.85 (2) (a) At least annually, the department of health and family services
19 shall certify to the department of revenue the amounts that, based on the
20 notifications received under sub. (1) and on other information received by the
21 department of health and family services, the department of health and family
22 services has determined that it may recover under s. 49.45 (2) (a) 10. ~~or~~, 49.497,
23 49.793, or 49.847, except that the department of health and family services may not
24 certify an amount under this subsection unless it has met the notice requirements

1 under sub. (3) and unless its determination has either not been appealed or is no
2 longer under appeal.

3 **SECTION 20.** 49.85 (2) (b) of the statutes is amended to read:

4 49.85 (2) (b) At least annually, the department of workforce development shall
5 certify to the department of revenue the amounts that, based on the notifications
6 received under sub. (1) and on other information received by the department of
7 workforce development, the department of workforce development has determined
8 that it may recover under ss. 49.161, and 49.195 (3), ~~and 49.793~~, and collect under
9 s. 49.147 (6) (cm), except that the department of workforce development may not
10 certify an amount under this subsection unless it has met the notice requirements
11 under sub. (3) and unless its determination has either not been appealed or is no
12 longer under appeal.

13 **SECTION 21.** 49.85 (3) (a) 1. of the statutes is amended to read:

14 49.85 (3) (a) 1. Inform the person that the department of health and family
15 services intends to certify to the department of revenue an amount that the
16 department of health and family services has determined to be due under s. 49.45
17 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847~~, for setoff from any state tax refund that may
18 be due the person.

19 **SECTION 22.** 49.85 (3) (b) 1. of the statutes is amended to read:

20 49.85 (3) (b) 1. Inform the person that the department of workforce
21 development intends to certify to the department of revenue an amount that the
22 department of workforce development has determined to be due under s. 49.161, or
23 49.195 (3), ~~or 49.793~~, or to be delinquent under a repayment agreement for a loan
24 under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

25 **SECTION 23.** 71.93 (1) (a) 3. of the statutes is amended to read:

71.93 (1) (a) 3. An amount that the department of health and family services may recover under s. 49.45 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847,~~ if the department of health and family services has certified the amount under s. 49.85.

SECTION 24. 71.93 (1) (a) 4. of the statutes is amended to read:

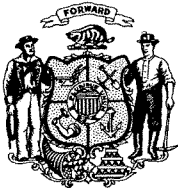
71.93 (1) (a) 4. An amount that the department of workforce development may recover under s. 49.161, or 49.195 (3), ~~or 49.793~~, or may collect under s. 49.147 (6) (cm), if the department of workforce development has certified the amount under s. 49.85.

SECTION 25. 978.05 (4m) of the statutes is amended to read:

978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department departments of workforce development and health and family services regarding the fraud investigation program programs under s. ss. 49.197 (1m) and 49.845 (1).

(END)

D-Note



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0587/1

PJK:jld:rs

DOA:.....Fath, BB0212 - Convert TANF appropriation to continuing
FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

~~PUBLIC ASSISTANCE~~

Insert 2-A → This bill ^{also} changes from annual to continuing a DWD general purpose revenue appropriation that is used primarily for the administration and benefit costs of Wisconsin Works. The unencumbered balance of an annual appropriation lapses to the fund from which the moneys are appropriated at the end of a fiscal year; continuing appropriation balances do not lapse at the end of a fiscal year or at the end of a biennium and are expendable until fully depleted.

← *W-2* For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.445 (3) (dz) of the statutes is amended to read:

3 20.445 (3) (dz) *Temporary Assistance for Needy Families programs;*
4 *maintenance of effort.* The ~~As a continuing appropriation, the amounts in the~~

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0265/2ins
PJK&GMM:jld:rs

INSERT 4-7

✓
****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.445 (3)(dz). This SECTION has been affected by drafts with the following LRB numbers: LRB-0265, -0587, -1526. ✱

(END OF INSERT 4-7)

and

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/2dn
PJK&GMM:jld:rs

Erin Fath and Steve Milioto:

This draft reconciles LRB-0265, LRB-0587, and LRB-1526 (with respect to s. 20.445 (3) (dz)). All of these drafts, except LRB-0587, should continue to appear in the compiled bill. LRB-0587 should be dropped from the compile.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/2dn
PJK:jld:ch

January 26, 2005

Erin Fath and Steve Milioto:

This draft reconciles LRB-0265, LRB-0587, and LRB-1526 (with respect to s. 20.445 (3) (dz)). All of these drafts, except LRB-0587, should continue to appear in the compiled bill. LRB-0587 should be dropped from the compile.

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0265/2
PJK&GMM:jld:ch

3
rmisum

DOA:.....Milioto, BB0021 - Administration of SSI program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

D-note

do not
gen cat

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under one program under current law, low-income individuals who are eligible to receive federal supplemental security income (SSI) because they are blind, disabled, or 65 years of age or older are eligible to receive a state supplemental payment. Under another program under current law, an individual who receives SSI or state supplemental payments, or both, and who is a custodial parent of a dependent child is eligible to receive monthly payments for the support of the dependent child. DHFS administers both of the programs. This bill expressly provides that DHFS shall administer both programs, and authorizes DHFS to promulgate rules to guide the administration of eligibility determinations and benefits payments under the programs.

DHFS administers a number of public assistance programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers, and provides that DHFS may recover overpayments by reducing the benefits of a family or individual who received the overpayments and who is still receiving benefits. The bill authorizes DHFS to specify by rule other methods for recovering incorrectly paid benefits, and provides for recovery of these incorrectly paid benefits through a state income tax refund setoff process.

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: the MA and the food stamp program.

This bill maintains the requirement for DWD to investigate fraud and conduct error reduction activities and the authorization for DHFS to contract with DWD, but adds an alternative fraud and error reduction scheme for both departments. Under the bill, DHFS is also required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. Thus, each department must either conduct its own investigation and error reduction activities or contract with the other department to do so. In addition, the bill adds three DHFS-administered programs to the programs for which fraudulent activity must be investigated and payment error reduction activities must be conducted: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

This bill also changes from annual to continuing a DWD general purpose revenue appropriation that is used primarily for the administration and benefit costs of W-2. The unencumbered balance of an annual appropriation lapses to the fund from which the moneys are appropriated at the end of a fiscal year; continuing appropriation balances do not lapse at the end of a fiscal year or at the end of a biennium and are expendable until fully depleted.

CHILDREN

Under current law, DHFS or a county department of human services or social services (county department) provides monthly payments to foster parents, treatment foster parents, kinship care relatives, and long-term kinship care relatives who provide care and maintenance for children. DHFS also provides adoption assistance, including monthly maintenance payments, to adoptive parents to assist in the cost of the care of children with special needs. This bill permits DHFS or a county department to recover an overpayment of foster care, treatment foster care, kinship care, long-term kinship care, and adoption assistance payments from a foster parent, treatment foster parent, kinship care relative, long-term kinship care relative, or adoptive parent who continues to receive those payments by reducing those payments. The bill also permits DHFS to specify by rule other methods for recovering those payments.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (L) of the statutes is amended to read:

20.435 (4) (L) ~~Medical assistance and food stamp fraud~~ Fraud and error reduction. All moneys received as the state's share of the recovery of overpayments and incorrect payments under ss. 49.847, 49.497 (1), ^{and (1m) ✓} and 49.793 (2) and all moneys received from counties and tribal governing bodies as a result of any error reduction activities ~~in the medical assistance and food stamp programs~~ under ss. ~~49.45 (2) (a) 3m.~~, 49.197, ~~and 49.79 (9)~~ and 49.845, for any contracts under s. 49.197 (5), for any activities to reduce error and fraud under ss. ~~49.45 (2) (a) 3m. and 49.79 (9)~~ s. 49.845, to pay federal sanctions under the food stamp program, and for food stamp reinvestment activities under reinvestment agreements with the federal department of agriculture that are designed to improve the food stamp program.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

SECTION 2. 20.445 (3) (dz) of the statutes is amended to read:

20.445 (3) (dz) *Temporary Assistance for Needy Families programs; maintenance of effort.* ~~The~~ As a continuing appropriation, the amounts in the schedule, less the amounts withheld under s. 49.143 (3), for administration and benefit payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work experience program for noncustodial parents under s. 49.36; for payments to local governments, organizations, tribal governing bodies, and Wisconsin Works agencies; and for emergency assistance for families with needy children under s. 49.138; ~~and for job access loans under s. 49.147 (6).~~

1 Payments may be made from this appropriation for any contracts under s. 49.845 (4)
2 and for any fraud investigation and error reduction activities under s. 49.197 (1m).
3 Moneys appropriated under this paragraph may be used to match federal funds
4 received under par. (md). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the
5 department may transfer funds between fiscal years under this paragraph.
6 Notwithstanding ss. 20.001 (3) and 20.002 (1), the department of health and family
7 services shall credit or deposit into this appropriation account funds for the purposes
8 of this appropriation that the department transfers from the appropriation account
9 under s. 20.435 (7) (bc). ~~All funds allocated by the department but not encumbered~~
10 ~~by December 31 of each year lapse to the general fund on the next January 1 unless~~
11 ~~transferred to the next calendar year by the joint committee on finance.~~

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.445 (3) (dz). This SECTION has been affected by drafts with the following LRB numbers: LRB-0265, -0587, and -1526.

12 **SECTION 3.** 20.445 (3) (L) of the statutes is amended to read:

13 20.445 (3) (L) *Public assistance overpayment recovery and fraud and error*
14 *reduction.* All moneys received as the state's share of the recovery of overpayments
15 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
16 for any contracts under s. 49.845 (4) and for any activities to reduce error and fraud
17 under s. 49.197 relating to the Aid to Families with Dependent Children program
18 and the Wisconsin Works program.

19 **SECTION 4.** 48.57 (3m) (h) of the statutes is created to read:

20 48.57 (3m) (h) A county department or, in a county having a population of
21 500,000 or more, the department may recover an overpayment made under par. (am)
22 from a kinship care relative who continues to receive payments under par. (am) by

1 reducing the amount of the kinship care relative's monthly payment. The
2 department may by rule specify other methods for recovering overpayments made
3 under par. (am). A county department that recovers an overpayment under this
4 paragraph due to the efforts of its officers and employees may retain a portion of the
5 amount recovered, as provided by the department by rule.

6 **SECTION 5.** 48.57 (3n) (h) of the statutes is created to read:

7 48.57 (3n) (h) A county department or, in a county having a population of
8 500,000 or more, the department may recover an overpayment made under par. (am)
9 from a long-term kinship care relative who continues to receive payments under par.
10 (am) by reducing the amount of the long-term kinship care relative's monthly
11 payment. The department may by rule specify other methods for recovering
12 overpayments made under par. (am). A county department that recovers an
13 overpayment under this paragraph due to the efforts of its officers and employees
14 may retain a portion of the amount recovered, as provided by the department by rule.

15 **SECTION 6.** 48.62 ⁽⁶⁾~~(5)~~ of the statutes is created to read:

16 48.62 ⁽⁶⁾~~(5)~~ The department or a county department may recover an overpayment
17 made under sub. (4) ^{or (5)} from a foster parent ^() or treatment foster parent, who continues
18 to receive payments under sub. (4) ^{or (5)} by reducing the amount of the ^{person's} foster parent's or
19 ~~treatment foster parent's~~ monthly payment. The department may by rule specify
20 other methods for recovering overpayments made under sub. (4) ^{or (5)} ~~or (5)~~. A county
21 department that recovers an overpayment under this subsection due to the efforts
22 of its officers and employees may retain a portion of the amount recovered, as
23 provided by the department by rule.

24 **SECTION 7.** 48.975 (4m) of the statutes is created to read:

Insert
5-23

1 48.975 (4m) RECOVERY OF INCORRECT PAYMENTS. The department may recover
2 an overpayment of adoption assistance from an adoptive parent who continues to
3 receive adoption assistance for maintenance by reducing the amount of the adoptive
4 parent's monthly payment of adoption assistance for maintenance. The department
5 may by rule specify other methods for recovering overpayments of adoption
6 assistance.

7 **SECTION 8.** 49.197 (1m) of the statutes is amended to read:

8 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3)
9 (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program to
10 investigate suspected fraudulent activity on the part of recipients of aid to families
11 with dependent children under s. 49.19, on the part of participants in the Wisconsin
12 works Works program under ss. 49.141 to 49.161, and, if the department of health
13 and family services contracts with the department under sub. (5), on the part of
14 recipients of medical assistance under subch. IV and, food stamp benefits under the
15 food stamp program under 7 USC 2011 to 2036, supplemental security income
16 payments under s. 49.77, payments for the support of children of supplemental
17 security income recipients under s. 49.775, and health care benefits under the
18 Badger Care health care program under s. 49.665. The department's activities under
19 this subsection may include, but are not limited to, comparisons of information
20 provided to the department by an applicant and information provided by the
21 applicant to other federal, state, and local agencies, development of an advisory
22 welfare investigation prosecution standard, and provision of funds to county
23 departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin works Works
24 agencies to encourage activities to detect fraud. The department shall cooperate
25 with district attorneys regarding fraud prosecutions.

1 **SECTION 9.** 49.197 (3) of the statutes is amended to read:

2 49.197 (3) STATE ERROR REDUCTION ACTIVITIES. The department shall conduct
3 activities to reduce payment errors in Wisconsin ~~works~~ Works under ss. 49.141 to
4 49.161 and, if the department of health and family services contracts with the
5 department under sub. (5), the ~~medical assistance~~ Medical Assistance program
6 under subch. IV ~~and~~, the food stamp program under 7 USC 2011 to 2036, ~~the~~
7 supplemental security income payments program under s. 49.77, the program
8 providing payments for the support of children of supplemental security income
9 recipients under s. 49.775, and the Badger Care health care program under s. 49.665.

10 **SECTION 10.** 49.197 (4) of the statutes is amended to read:

11 49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION. If the department of health and
12 family services contracts with the department under sub. (5), the department shall
13 provide funds from the appropriation under s. 20.445 (3) (kx) to counties and
14 governing bodies of federally recognized American Indian tribes administering
15 ~~medical assistance~~ Medical Assistance under subch. IV ~~or~~, the food stamp program
16 under 7 USC 2011 to 2036, the supplemental security income payments program
17 under s. 49.77, the program providing payments for the support of children of
18 supplemental security income recipients under s. 49.775, and the Badger Care
19 health care program under s. 49.665 to offset administrative costs of reducing
20 payment errors in those programs.

21 **SECTION 11.** 49.197 (5) of the statutes is amended to read:

22 49.197 (5) CONTRACTS FOR MEDICAL ASSISTANCE ~~AND~~, FOOD STAMPS, SUPPLEMENTAL
23 SECURITY INCOME, AND CARETAKER SUPPLEMENT. ~~The~~ Notwithstanding s. 49.845 (1) and
24 (2), the department of health and family services may contract with the department
25 to investigate suspected fraudulent activity on the part of recipients of medical

1 assistance under subch. IV ~~or recipients of~~, food stamp benefits under the food stamp
2 program under 7 USC 2011 to 2036, supplemental security income payments under
3 s. 49.77, payments for the support of children of supplemental security income
4 recipients under s. 49.775, and health care benefits under the Badger Care health
5 care program under s. 49.665 and to conduct activities to reduce payment errors in
6 the Medical Assistance program under subch. IV, the food stamp program under 7
7 USC 2011 to 2036, the supplemental security income payments program under s.
8 49.77, the program providing payments for the support of children of supplemental
9 security income recipients under s. 49.775, and the Badger Care health care program
10 under s. 49.665, as provided in this section.

11 **SECTION 12.** 49.45 (2) (a) 3m. of the statutes is repealed.

12 **SECTION 13.** 49.77 (6) of the statutes is created to read:

13 49.77 (6) AUTHORITY TO ADMINISTER; RULES. The department shall administer
14 this section and s. 49.775, and may promulgate rules to guide the administration of
15 eligibility determinations and benefits payments.

16 **SECTION 14.** 49.78 (8) (a) of the statutes is amended to read:

17 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
18 and subject to par. (b), the department shall reimburse each county and tribal
19 governing body that contracts with the department under sub. (2) for reasonable
20 costs of administering the income maintenance programs. The amount of each
21 reimbursement paid under this paragraph shall be calculated using a formula based
22 on workload within the limits of available state and federal funds under s. 20.435 (4)
23 (bn) and (nn) by contract under sub. (2). The amount of reimbursement calculated
24 under this paragraph and par. (b) is in addition to any reimbursement provided to

1 a county or tribal governing body for fraud and error reduction under s. 49.197 (1m)
2 and (4) or 49.845.

3 **SECTION 15.** 49.79 (9) of the statutes is repealed.

4 **SECTION 16.** 49.845 of the statutes is created to read:

5 **49.845 Fraud investigation and error reduction. (1) FRAUD**
6 **INVESTIGATION.** From the appropriations under s. 20.435 (4) (bn), (kz), (L), and (nn),
7 the department of health and family services shall establish a program to investigate
8 suspected fraudulent activity on the part of recipients of medical assistance under
9 subch. IV, food stamp benefits under the food stamp program under 7 USC 2011 to
10 2036, supplemental security income payments under s. 49.77, payments for the
11 support of children of supplemental security income recipients under s. 49.775, and
12 health care benefits under the Badger Care health care program under s. 49.665 and,
13 if the department of workforce development contracts with the department of health
14 and family services under sub. (4), on the part of recipients of aid to families with
15 dependent children under s. 49.19 and participants in the Wisconsin Works program
16 under ss. 49.141 to 49.161. The activities of the department of health and family
17 services under this subsection may include comparisons of information provided to
18 the department by an applicant and information provided by the applicant to other
19 federal, state, and local agencies, development of an advisory welfare investigation
20 prosecution standard, and provision of funds to county departments under ss.
21 46.215, 46.22, and 46.23 and to Wisconsin Works agencies to encourage activities to
22 detect fraud. The department of health and family services shall cooperate with
23 district attorneys regarding fraud prosecutions.

24 **(2) STATE ERROR REDUCTION ACTIVITIES.** The department of health and family
25 services shall conduct activities to reduce payment errors in the Medical Assistance

1 program under subch. IV, the food stamp program under 7 USC 2011 to 2036, the
2 supplemental security income payments program under s. 49.77, the program
3 providing payments for the support of children of supplemental security income
4 recipients under s. 49.775, and the Badger Care health care program under s. 49.665
5 and, if the department of workforce development contracts with the department of
6 health and family services under sub. (4), in Wisconsin Works under ss. 49.141 to
7 49.161.

8 (3) WISCONSIN WORKS AGENCY ERROR REDUCTION. If the department of workforce
9 development contracts with the department of health and family services under sub.
10 (4), the department of health and family services shall provide funds from the
11 appropriation under s. 20.435 (4) (kz) to Wisconsin Works agencies to offset the
12 administrative costs of reducing payment errors in Wisconsin Works under ss.
13 49.141 to 49.161.

14 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3),
15 the department of workforce development may contract with the department of
16 health and family services to investigate suspected fraudulent activity on the part
17 of recipients of aid to families with dependent children under s. 49.19 and
18 participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities
19 to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided
20 in this section.

21 SECTION 17. 49.847 of the statutes is created to read:

22 **49.847 Recovery of incorrect payments under certain public**
23 **assistance programs.** (1) Subject to ss. 49.497 (1) and 49.793 (1), the department
24 of health and family services, or a county or elected governing body of a federally
25 recognized American Indian tribe or band acting on behalf of the department, may

1 recover benefits incorrectly paid under any of the programs administered by the
2 department under this chapter.

3 (2) The department, county, or elected governing body may recover an
4 overpayment from a family or individual who continues to receive benefits under any
5 program administered by the department under this chapter by reducing the
6 family's or individual's benefit amount. Subject to s. 49.793 (1), the department may
7 by rule specify other methods for recovering incorrectly paid benefits.

8 (3) Subject to ss. 49.497 (2) and 49.793 (2), a county or elected governing body
9 may retain a portion of an amount recovered under this section due to the efforts of
10 an employee or officer of the county, tribe, or band, as provided by the department
11 by rule.

12 **SECTION 18.** 49.85 (1) of the statutes is amended to read:

13 49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT. If a county department under
14 s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American
15 Indian tribe or band determines that the department of health and family services
16 may recover an amount under s. 49.497, 49.793, or 49.847, or that the department
17 of workforce development may recover an amount under s. 49.161, or 49.195 (3), ~~or~~
18 ~~49.793~~, or collect an amount under s. 49.147 (6) (cm), the county department or
19 governing body shall notify the affected department of the determination. If a
20 Wisconsin ~~works~~ Works agency determines that the department of workforce
21 development may recover an amount under s. 49.161 or 49.195 (3), or collect an
22 amount under s. 49.147 (6) (cm), the Wisconsin ~~works~~ Works agency shall notify the
23 department of workforce development of the determination.

24 **SECTION 19.** 49.85 (2) (a) of the statutes is amended to read:

1 49.85 (2) (a) At least annually, the department of health and family services
2 shall certify to the department of revenue the amounts that, based on the
3 notifications received under sub. (1) and on other information received by the
4 department of health and family services, the department of health and family
5 services has determined that it may recover under s. 49.45 (2) (a) 10. ~~or~~, 49.497,
6 49.793, or 49.847, except that the department of health and family services may not
7 certify an amount under this subsection unless it has met the notice requirements
8 under sub. (3) and unless its determination has either not been appealed or is no
9 longer under appeal.

10 **SECTION 20.** 49.85 (2) (b) of the statutes is amended to read:

11 49.85 (2) (b) At least annually, the department of workforce development shall
12 certify to the department of revenue the amounts that, based on the notifications
13 received under sub. (1) and on other information received by the department of
14 workforce development, the department of workforce development has determined
15 that it may recover under ss. 49.161, and 49.195 (3), ~~and 49.793~~, and collect under
16 s. 49.147 (6) (cm), except that the department of workforce development may not
17 certify an amount under this subsection unless it has met the notice requirements
18 under sub. (3) and unless its determination has either not been appealed or is no
19 longer under appeal.

20 **SECTION 21.** 49.85 (3) (a) 1. of the statutes is amended to read:

21 49.85 (3) (a) 1. Inform the person that the department of health and family
22 services intends to certify to the department of revenue an amount that the
23 department of health and family services has determined to be due under s. 49.45
24 (2) (a) 10. ~~or~~, 49.497, 49.793, or 49.847, for setoff from any state tax refund that may
25 be due the person.

SECTION 22. 49.85 (3) (b) 1. of the statutes is amended to read:

49.85 (3) (b) 1. Inform the person that the department of workforce development intends to certify to the department of revenue an amount that the department of workforce development has determined to be due under s. 49.161, or 49.195 (3), ~~or 49.793~~, or to be delinquent under a repayment agreement for a loan under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

SECTION 23. 71.93 (1) (a) 3. of the statutes is amended to read:

71.93 (1) (a) 3. An amount that the department of health and family services may recover under s. 49.45 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847,~~ if the department of health and family services has certified the amount under s. 49.85.

SECTION 24. 71.93 (1) (a) 4. of the statutes is amended to read:

71.93 (1) (a) 4. An amount that the department of workforce development may recover under s. 49.161, or 49.195 (3), ~~or 49.793,~~ or may collect under s. 49.147 (6) (cm), if the department of workforce development has certified the amount under s. 49.85.

SECTION 25. 978.05 (4m) of the statutes is amended to read:

978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the department departments of workforce development and health and family services regarding the fraud investigation program programs under s. ss. 49.197 (1m) and 49.845 (1).

(END)

D-note

**2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0265/3ins
PJK&GMM:jld:ch

INSERT 3-12

✓
****NOTE: This is reconciled s. 20.435 (4) (L). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0265 and LRB-0879.

(END OF INSERT 3-12)

Insert 5-23

~~xxx~~ NOTE: This is recorded s. 48.62(6)✓
= (S)

This section has been affected by drafts with the
following LRB #s: (S) LRB-0265/2 and LRB-0084/2✓

(work out)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/3dn
PJK&GMM:jld:ch

Dennis Rhodes

Steve Milioto and Robert Blaine:

This draft reconciles LRB-0265 and LRB-0879 (with respect to ss. 20.435 (4) (L) and 49.85 (2) (a)). Both of these drafts should continue to appear in the compiled bill.

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DRAFT CONTINUED

also

This draft reconciles LRB-0265 / 2 and LRB-0084 / 2.

Both LRB-0265 and LRB-0084

(NO #)

should continue to appear in the compiled

bill.

Gm

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0265/3dn
PJK&GMM:jld:ch

January 26, 2005

Steve Milioto, Dennis Rhodes, and Robert Blaine:

This draft reconciles LRB-0265 and LRB-0879 (with respect to ss. 20.435 (4) (L) and 49.85 (2) (a)). Both of these drafts should continue to appear in the compiled bill.

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This draft also reconciles LRB-0265/2 and LRB-0084/2. Both LRB-0265 and LRB-0084 should continue to appear in the compiled bill.

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State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-0265/3
PJK&GMM:jld:ch

DOA:.....Milioto, BB0021 - Administration of SSI program

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under one program under current law, low-income individuals who are eligible to receive federal supplemental security income (SSI) because they are blind, disabled, or 65 years of age or older are eligible to receive a state supplemental payment. Under another program under current law, an individual who receives SSI or state supplemental payments, or both, and who is a custodial parent of a dependent child is eligible to receive monthly payments for the support of the dependent child. DHFS administers both of the programs. This bill expressly provides that DHFS shall administer both programs, and authorizes DHFS to promulgate rules to guide the administration of eligibility determinations and benefits payments under the programs.

DHFS administers a number of public assistance programs under current law under which persons who satisfy eligibility criteria receive financial, health care, or other types of assistance. This bill specifically authorizes DHFS to recover benefits incorrectly paid under any of the assistance programs that it administers, and provides that DHFS may recover overpayments by reducing the benefits of a family or individual who received the overpayments and who is still receiving benefits. The bill authorizes DHFS to specify by rule other methods for recovering incorrectly paid benefits, and provides for recovery of these incorrectly paid benefits through a state income tax refund setoff process.

Under current law, DWD is required to investigate suspected fraudulent activity on the part of participants in the Aid to Families with Dependent Children (AFDC) program and participants in the Wisconsin Works (W-2) program and to conduct activities to reduce payment errors in W-2. DHFS is authorized to contract with DWD for DWD to investigate suspected fraudulent activity and to conduct activities to reduce payment errors in two programs administered by DHFS: the MA and the food stamp program.

This bill maintains the requirement for DWD to investigate fraud and conduct error reduction activities and the authorization for DHFS to contract with DWD, but adds an alternative fraud and error reduction scheme for both departments. Under the bill, DHFS is also required to investigate suspected fraudulent activities and to conduct activities to reduce payment errors in the programs that it administers and DWD is authorized to contract with DHFS to investigate suspected fraud and conduct payment error reduction activities in the programs that DWD administers. Thus, each department must either conduct its own investigation and error reduction activities or contract with the other department to do so. In addition, the bill adds three DHFS-administered programs to the programs for which fraudulent activity must be investigated and payment error reduction activities must be conducted: the Badger Care health care program, the program under which DHFS provides state supplemental payments to persons eligible to receive SSI, and the program under which DHFS makes monthly payments for the support of dependent children to custodial parents who are receiving SSI or state supplemental payments.

This bill also changes from annual to continuing a DWD general purpose revenue appropriation that is used primarily for the administration and benefit costs of W-2. The unencumbered balance of an annual appropriation lapses to the fund from which the moneys are appropriated at the end of a fiscal year; continuing appropriation balances do not lapse at the end of a fiscal year or at the end of a biennium and are expendable until fully depleted.

CHILDREN

Under current law, DHFS or a county department of human services or social services (county department) provides monthly payments to foster parents, treatment foster parents, kinship care relatives, and long-term kinship care relatives who provide care and maintenance for children. DHFS also provides adoption assistance, including monthly maintenance payments, to adoptive parents to assist in the cost of the care of children with special needs. This bill permits DHFS or a county department to recover an overpayment of foster care, treatment foster care, kinship care, long-term kinship care, and adoption assistance payments from a foster parent, treatment foster parent, kinship care relative, long-term kinship care relative, or adoptive parent who continues to receive those payments by reducing those payments. The bill also permits DHFS to specify by rule other methods for recovering those payments.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.435 (4) (L) of the statutes is amended to read:

2 20.435 (4) (L) ~~Medical assistance and food stamp fraud~~ Fraud and error
3 *reduction.* All moneys received as the state's share of the recovery of overpayments
4 and incorrect payments under ss. 49.847, 49.497 (1) and (1m), and 49.793 (2) and all
5 moneys received from counties and tribal governing bodies as a result of any error
6 reduction activities ~~in the medical assistance and food stamp programs~~ under ss.
7 ~~49.45 (2) (a) 3m., 49.197, and 49.79 (9)~~ and 49.845, for any contracts under s. 49.197
8 (5), for any activities to reduce error and fraud under ss. ~~49.45 (2) (a) 3m. and 49.79~~
9 ~~(9) s. 49.845~~, to pay federal sanctions under the food stamp program, and for food
10 stamp reinvestment activities under reinvestment agreements with the federal
11 department of agriculture that are designed to improve the food stamp program.

 ***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

 ***NOTE: This is reconciled s. 20.435 (4) (L). This SECTION has been affected by drafts with the following LRB numbers: LRB-0265 and LRB-0879.

12 **SECTION 2.** 20.445 (3) (dz) of the statutes is amended to read:

13 20.445 (3) (dz) *Temporary Assistance for Needy Families programs;*
14 *maintenance of effort.* ~~The~~ As a continuing appropriation, the amounts in the
15 schedule, less the amounts withheld under s. 49.143 (3), for administration and
16 benefit payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare
17 program under s. 49.26, and the work experience program for noncustodial parents
18 under s. 49.36; for payments to local governments, organizations, tribal governing
19 bodies, and Wisconsin Works agencies; and for emergency assistance for families

1 with needy children under s. 49.138; and for job access loans under s. 49.147 (6).
2 Payments may be made from this appropriation for any contracts under s. 49.845 (4)
3 and for any fraud investigation and error reduction activities under s. 49.197 (1m).
4 Moneys appropriated under this paragraph may be used to match federal funds
5 received under par. (md). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the
6 department may transfer funds between fiscal years under this paragraph.
7 Notwithstanding ss. 20.001 (3) and 20.002 (1), the department of health and family
8 services shall credit or deposit into this appropriation account funds for the purposes
9 of this appropriation that the department transfers from the appropriation account
10 under s. 20.435 (7) (bc). ~~All funds allocated by the department but not encumbered~~
11 ~~by December 31 of each year lapse to the general fund on the next January 1 unless~~
12 ~~transferred to the next calendar year by the joint committee on finance.~~

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: This is reconciled s. 20.445 (3) (dz). This SECTION has been affected by drafts with the following LRB numbers: LRB-0265, -0587, and -1526.

13 **SECTION 3.** 20.445 (3) (L) of the statutes is amended to read:

14 20.445 (3) (L) *Public assistance overpayment recovery and fraud and error*
15 *reduction.* All moneys received as the state's share of the recovery of overpayments
16 and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s. 49.195, 1997 stats.,
17 for any contracts under s. 49.845 (4) and for any activities to reduce error and fraud
18 under s. 49.197 relating to the Aid to Families with Dependent Children program
19 and the Wisconsin Works program.

20 **SECTION 4.** 48.57 (3m) (h) of the statutes is created to read:

21 48.57 (3m) (h) A county department or, in a county having a population of
22 500,000 or more, the department may recover an overpayment made under par. (am)

1 from a kinship care relative who continues to receive payments under par. (am) by
2 reducing the amount of the kinship care relative's monthly payment. The
3 department may by rule specify other methods for recovering overpayments made
4 under par. (am). A county department that recovers an overpayment under this
5 paragraph due to the efforts of its officers and employees may retain a portion of the
6 amount recovered, as provided by the department by rule.

7 **SECTION 5.** 48.57 (3n) (h) of the statutes is created to read:

8 48.57 (3n) (h) A county department or, in a county having a population of
9 500,000 or more, the department may recover an overpayment made under par. (am)
10 from a long-term kinship care relative who continues to receive payments under par.
11 (am) by reducing the amount of the long-term kinship care relative's monthly
12 payment. The department may by rule specify other methods for recovering
13 overpayments made under par. (am). A county department that recovers an
14 overpayment under this paragraph due to the efforts of its officers and employees
15 may retain a portion of the amount recovered, as provided by the department by rule.

16 **SECTION 6.** 48.62 (6) of the statutes is created to read:

17 48.62 (6) The department or a county department may recover an overpayment
18 made under sub. (4) or (5) from a foster parent, treatment foster parent, guardian,
19 or interim caretaker who continues to receive payments under sub. (4) or (5) by
20 reducing the amount of the person's monthly payment. The department may by rule
21 specify other methods for recovering overpayments made under sub. (4) or (5). A
22 county department that recovers an overpayment under this subsection due to the
23 efforts of its officers and employees may retain a portion of the amount recovered, as
24 provided by the department by rule.

****NOTE: This is reconciled s. 48.62 (6). This SECTION has been affected by drafts with the following LRB numbers: LRB-0265/2 and LRB-0084/2.

SECTION 7. 48.975 (4m) of the statutes is created to read:

48.975 (4m) RECOVERY OF INCORRECT PAYMENTS. The department may recover an overpayment of adoption assistance from an adoptive parent who continues to receive adoption assistance for maintenance by reducing the amount of the adoptive parent's monthly payment of adoption assistance for maintenance. The department may by rule specify other methods for recovering overpayments of adoption assistance.

SECTION 8. 49.197 (1m) of the statutes is amended to read:

49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.445 (3) (dz), (kx), (L), (md), (n), and (nL), the department shall establish a program to investigate suspected fraudulent activity on the part of recipients of aid to families with dependent children under s. 49.19, on the part of participants in the Wisconsin ~~works~~ Works program under ss. 49.141 to 49.161, and, if the department of health and family services contracts with the department under sub. (5), on the part of recipients of medical assistance under subch. IV and, food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665. The department's activities under this subsection may include, but are not limited to, comparisons of information provided to the department by an applicant and information provided by the applicant to other federal, state, and local agencies, development of an advisory welfare investigation prosecution standard, and provision of funds to county

1 departments under ss. 46.215, 46.22, and 46.23 and to Wisconsin ~~works~~ Works
2 agencies to encourage activities to detect fraud. The department shall cooperate
3 with district attorneys regarding fraud prosecutions.

4 **SECTION 9.** 49.197 (3) of the statutes is amended to read:

5 49.197 (3) STATE ERROR REDUCTION ACTIVITIES. The department shall conduct
6 activities to reduce payment errors in Wisconsin ~~works~~ Works under ss. 49.141 to
7 49.161 and, if the department of health and family services contracts with the
8 department under sub. (5), the ~~medical assistance~~ Medical Assistance program
9 under subch. IV ~~and~~, the food stamp program under 7 USC 2011 to 2036, the
10 supplemental security income payments program under s. 49.77, the program
11 providing payments for the support of children of supplemental security income
12 recipients under s. 49.775, and the Badger Care health care program under s. 49.665.

13 **SECTION 10.** 49.197 (4) of the statutes is amended to read:

14 49.197 (4) COUNTY AND TRIBAL ERROR REDUCTION. If the department of health and
15 family services contracts with the department under sub. (5), the department shall
16 provide funds from the appropriation under s. 20.445 (3) (kx) to counties and
17 governing bodies of federally recognized American Indian tribes administering
18 ~~medical assistance~~ Medical Assistance under subch. IV ~~or~~, the food stamp program
19 under 7 USC 2011 to 2036, the supplemental security income payments program
20 under s. 49.77, the program providing payments for the support of children of
21 supplemental security income recipients under s. 49.775, and the Badger Care
22 health care program under s. 49.665 to offset administrative costs of reducing
23 payment errors in those programs.

24 **SECTION 11.** 49.197 (5) of the statutes is amended to read:

1 49.197 (5) CONTRACTS FOR MEDICAL ASSISTANCE AND, FOOD STAMPS, SUPPLEMENTAL
2 SECURITY INCOME, AND CARETAKER SUPPLEMENT. The Notwithstanding s. 49.845 (1) and
3 (2), the department of health and family services may contract with the department
4 to investigate suspected fraudulent activity on the part of recipients of medical
5 assistance under subch. IV or recipients of, food stamp benefits under the food stamp
6 program under 7 USC 2011 to 2036, supplemental security income payments under
7 s. 49.77, payments for the support of children of supplemental security income
8 recipients under s. 49.775, and health care benefits under the Badger Care health
9 care program under s. 49.665 and to conduct activities to reduce payment errors in
10 the Medical Assistance program under subch. IV, the food stamp program under 7
11 USC 2011 to 2036, the supplemental security income payments program under s.
12 49.77, the program providing payments for the support of children of supplemental
13 security income recipients under s. 49.775, and the Badger Care health care program
14 under s. 49.665, as provided in this section.

15 **SECTION 12.** 49.45 (2) (a) 3m. of the statutes is repealed.

16 **SECTION 13.** 49.77 (6) of the statutes is created to read:

17 49.77 (6) **AUTHORITY TO ADMINISTER; RULES.** The department shall administer
18 this section and s. 49.775, and may promulgate rules to guide the administration of
19 eligibility determinations and benefits payments.

20 **SECTION 14.** 49.78 (8) (a) of the statutes is amended to read:

21 49.78 (8) (a) From the appropriation accounts under s. 20.435 (4) (bn) and (nn)
22 and subject to par. (b), the department shall reimburse each county and tribal
23 governing body that contracts with the department under sub. (2) for reasonable
24 costs of administering the income maintenance programs. The amount of each
25 reimbursement paid under this paragraph shall be calculated using a formula based

1 on workload within the limits of available state and federal funds under s. 20.435 (4)
2 (bn) and (nn) by contract under sub. (2). The amount of reimbursement calculated
3 under this paragraph and par. (b) is in addition to any reimbursement provided to
4 a county or tribal governing body for fraud and error reduction under s. 49.197 ~~(1m)~~
5 ~~and (4) or 49.845.~~

6 **SECTION 15.** 49.79 (9) of the statutes is repealed.

7 **SECTION 16.** 49.845 of the statutes is created to read:

8 **49.845 Fraud investigation and error reduction. (1) FRAUD**
9 **INVESTIGATION.** From the appropriations under s. 20.435 (4) (bn), (kz), (L), and (nn),
10 the department of health and family services shall establish a program to investigate
11 suspected fraudulent activity on the part of recipients of medical assistance under
12 subch. IV, food stamp benefits under the food stamp program under 7 USC 2011 to
13 2036, supplemental security income payments under s. 49.77, payments for the
14 support of children of supplemental security income recipients under s. 49.775, and
15 health care benefits under the Badger Care health care program under s. 49.665 and,
16 if the department of workforce development contracts with the department of health
17 and family services under sub. (4), on the part of recipients of aid to families with
18 dependent children under s. 49.19 and participants in the Wisconsin Works program
19 under ss. 49.141 to 49.161. The activities of the department of health and family
20 services under this subsection may include comparisons of information provided to
21 the department by an applicant and information provided by the applicant to other
22 federal, state, and local agencies, development of an advisory welfare investigation
23 prosecution standard, and provision of funds to county departments under ss.
24 46.215, 46.22, and 46.23 and to Wisconsin Works agencies to encourage activities to

1 detect fraud. The department of health and family services shall cooperate with
2 district attorneys regarding fraud prosecutions.

3 (2) STATE ERROR REDUCTION ACTIVITIES. The department of health and family
4 services shall conduct activities to reduce payment errors in the Medical Assistance
5 program under subch. IV, the food stamp program under 7 USC 2011 to 2036, the
6 supplemental security income payments program under s. 49.77, the program
7 providing payments for the support of children of supplemental security income
8 recipients under s. 49.775, and the Badger Care health care program under s. 49.665
9 and, if the department of workforce development contracts with the department of
10 health and family services under sub. (4), in Wisconsin Works under ss. 49.141 to
11 49.161.

12 (3) WISCONSIN WORKS AGENCY ERROR REDUCTION. If the department of workforce
13 development contracts with the department of health and family services under sub.
14 (4), the department of health and family services shall provide funds from the
15 appropriation under s. 20.435 (4) (kz) to Wisconsin Works agencies to offset the
16 administrative costs of reducing payment errors in Wisconsin Works under ss.
17 49.141 to 49.161.

18 (4) CONTRACT FOR WISCONSIN WORKS. Notwithstanding s. 49.197 (1m) and (3),
19 the department of workforce development may contract with the department of
20 health and family services to investigate suspected fraudulent activity on the part
21 of recipients of aid to families with dependent children under s. 49.19 and
22 participants in Wisconsin Works under ss. 49.141 to 49.161 and to conduct activities
23 to reduce payment errors in Wisconsin Works under ss. 49.141 to 49.161, as provided
24 in this section.

25 **SECTION 17.** 49.847 of the statutes is created to read:

1 **49.847 Recovery of incorrect payments under certain public**
2 **assistance programs.** (1) Subject to ss. 49.497 (1) and 49.793 (1), the department
3 of health and family services, or a county or elected governing body of a federally
4 recognized American Indian tribe or band acting on behalf of the department, may
5 recover benefits incorrectly paid under any of the programs administered by the
6 department under this chapter.

7 (2) The department, county, or elected governing body may recover an
8 overpayment from a family or individual who continues to receive benefits under any
9 program administered by the department under this chapter by reducing the
10 family's or individual's benefit amount. Subject to s. 49.793 (1), the department may
11 by rule specify other methods for recovering incorrectly paid benefits.

12 (3) Subject to ss. 49.497 (2) and 49.793 (2), a county or elected governing body
13 may retain a portion of an amount recovered under this section due to the efforts of
14 an employee or officer of the county, tribe, or band, as provided by the department
15 by rule.

16 **SECTION 18.** 49.85 (1) of the statutes is amended to read:

17 **49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT.** If a county department under
18 s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American
19 Indian tribe or band determines that the department of health and family services
20 may recover an amount under s. 49.497, 49.793, or 49.847, or that the department
21 of workforce development may recover an amount under s. 49.161, or 49.195 (3), ~~or~~
22 ~~49.793~~, or collect an amount under s. 49.147 (6) (cm), the county department or
23 governing body shall notify the affected department of the determination. If a
24 Wisconsin ~~works~~ Works agency determines that the department of workforce
25 development may recover an amount under s. 49.161 or 49.195 (3), or collect an

1 amount under s. 49.147 (6) (cm), the Wisconsin ~~works~~ Works agency shall notify the
2 department of workforce development of the determination.

3 **SECTION 19.** 49.85 (2) (b) of the statutes is amended to read:

4 49.85 (2) (b) At least annually, the department of workforce development shall
5 certify to the department of revenue the amounts that, based on the notifications
6 received under sub. (1) and on other information received by the department of
7 workforce development, the department of workforce development has determined
8 that it may recover under ss. 49.161, and 49.195 (3), ~~and 49.793~~, and collect under
9 s. 49.147 (6) (cm), except that the department of workforce development may not
10 certify an amount under this subsection unless it has met the notice requirements
11 under sub. (3) and unless its determination has either not been appealed or is no
12 longer under appeal.

13 **SECTION 20.** 49.85 (3) (a) 1. of the statutes is amended to read:

14 49.85 (3) (a) 1. Inform the person that the department of health and family
15 services intends to certify to the department of revenue an amount that the
16 department of health and family services has determined to be due under s. 49.45
17 (2) (a) 10. ~~or~~, 49.497, 49.793, or 49.847, for setoff from any state tax refund that may
18 be due the person.

19 **SECTION 21.** 49.85 (3) (b) 1. of the statutes is amended to read:

20 49.85 (3) (b) 1. Inform the person that the department of workforce
21 development intends to certify to the department of revenue an amount that the
22 department of workforce development has determined to be due under s. 49.161, or
23 49.195 (3), ~~or 49.793~~, or to be delinquent under a repayment agreement for a loan
24 under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

25 **SECTION 22.** 71.93 (1) (a) 3. of the statutes is amended to read:

71.93 (1) (a) 3. An amount that the department of health and family services may recover under s. 49.45 (2) (a) 10. ~~or, 49.497, 49.793, or 49.847,~~ if the department of health and family services has certified the amount under s. 49.85.

SECTION 23. 71.93 (1) (a) 4. of the statutes is amended to read:

71.93 (1) (a) 4. An amount that the department of workforce development may recover under s. 49.161, or 49.195 (3), ~~or 49.793,~~ or may collect under s. 49.147 (6) (cm), if the department of workforce development has certified the amount under s. 49.85.

SECTION 24. 978.05 (4m) of the statutes is amended to read:

978.05 (4m) WELFARE FRAUD INVESTIGATIONS. Cooperate with the ~~department~~
departments of workforce development and health and family services regarding the
fraud investigation ~~program~~ programs under s. ss. 49.197 (1m) and 49.845 (1).

(END)